

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ALAN KACHALSKY, CHRISTINA NIKOLOV, ERIC  
DETMER, JOHNNIE NANCE, ANNA MARCUCCI-  
NANCE, and SECOND AMENDMENT  
FOUNDATION, INC.,

Plaintiffs,

-against-

SUSAN CACACE, JEFFREY A. COHEN, ALBERT  
LORENZO, ROBERT K. HOLDMAN, and COUNTY  
OF WESTCHESTER,

Defendants.  
-----X

**DECLARATION OF  
MELISSA-JEAN ROTINI IN  
OPPOSITION TO  
PLAINTIFFS' MOTION  
FOR SUMMARY  
JUDGMENT**

Case No.: 10 CV 05413 (CS)

ECF Case

Melissa-Jean Rotini, pursuant to 28 U.S.C. §1746, declares:

1. I am an Assistant County Attorney in the Office of Robert F. Meehan, Westchester County Attorney, attorney for Defendant County of Westchester (hereinafter referred to as "County") in the above-captioned matter.
2. I submit this Declaration in Opposition to the Plaintiffs Motion for Summary Judgment, as more specifically set forth in the accompanying Memorandum of Law.
3. Annexed hereto are the following Exhibits:

Exhibit A Declaration of Bruce B. Bellom.

Exhibit B A Blank Pistol Permit Application Form for an initial Pistol Permit License; a blank Pistol Permit License Application for an Amendment/Restriction Change; a blank Background Investigation Worksheet; a blank Full Carry Attachment; and a blank Character Reference Letter, together with the approval from the New York State Police.

Exhibit C Decision of Co-Defendant Judge Cacace with respect to the Pistol Permit License Application of Plaintiff Kachalsky, filed and entered October 8, 2008.

Exhibit D Decision of Co-Defendant Judge Cohen with respect to the Pistol Permit License Application of Plaintiff Nikolov, filed and entered October 2, 2008.

Exhibit E Decision of Co-Defendant Judge Lorenzo with respect to the Pistol Permit License Application of Plaintiff Detmer, dated September 27, 2010.

Exhibit F      Decision of Co-Defendant Judge Holdman with respect to the Pistol Permit License Application of Plaintiff Nance, filed and entered September 10, 2010.

Exhibit G      Decision of Co-Defendant Judge Holdman with respect to the Pistol Permit License Application of Plaintiff Marcucci-Nance, filed and entered September 10, 2010.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: White Plains, New York  
January 26, 2011

  
\_\_\_\_\_  
Melissa-Jean Rotini (MR-4948)  
Assistant County Attorney, of Counsel

**EXHIBIT A:**  
**Declaration of Bruce B. Bellem**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ALAN KACHALSKY, CHRISTINA NIKOLOV, ERIC  
DETMER, JOHNNIE NANCE, ANNA MARCUCCI-  
NANCE, and SECOND AMENDMENT  
FOUNDATION, INC.,

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-against-

SUSAN CACACE, JEFFREY A. COHEN, ALBERT  
LORENZO, ROBERT K. HOLDMAN, and COUNTY  
OF WESTCHESTER,

Defendants.  
-----X

**DECLARATION OF BRUCE  
B. BELLOM IN SUPPORT  
OF OPPOSITION TO  
PLAINTIFFS MOTION FOR  
SUMMARY JUDGMENT**

Case No.: 10 CV 05413 (CS)

ECF Case

**DECLARATION OF BRUCE B. BELLOM**

The undersigned declares under penalty of perjury and in accordance with 28 U.S.C.  
§1746 as follows:

1. I am the Sergeant and Commanding Officer of the Pistol Licensing Unit within the Westchester County Department of Public Safety ("County"). This declaration is respectfully submitted in Opposition to the Plaintiffs' Motion for Summary Judgment.
2. I have been employed by the County for 29 years, have been a Sergeant with the County since 1991, and have been the Commanding Officer of the Pistol License Unit of the County since May 2007. As such, I am familiar with the practices and procedures of the County regarding the application for pistol permit licenses within the County, and thus make this declaration based upon personal knowledge of those practices and procedures as well as upon my review of records kept in the normal course of business by the County.
3. To apply for a pistol permit license, or amend a current license, in the geographical area of Westchester County, an individual must submit an application, fingerprints, and will be subject to an investigation of the information submitted in accordance with the New

York State Penal Law §400.00 *et seq.*

4. The application packets are maintained in the County Clerk's Office, which also stores the completed applications, whether approved or denied.

5. The application form permits the applicant to select the type of pistol permit license for which s/he is applying, and allows the applicant to explain the reasons for seeking such a permit license. The application also asks for information as to prior criminal activity, mental health commitments, revocations of licenses, and orders of protection.

6. Once the application is submitted, the Pistol Licensing Unit commences the investigation directed by the statutory mandate of Penal Law §400.00(4).

7. A Detective affiliated with the Pistol Licensing Unit will take fingerprints of the applicant to conduct a criminal background check. This is done with an electronic fingerprinting system at the time of the application. The criminal background check for initial applications is performed through the New York State Department of Criminal Justice Services, the Federal Bureau of Investigation and the National Instant Criminal Background system. The printed results of these background checks are then added to the investigation materials for the applicant's file.

8. Once an individual has a pistol permit license, the Pistol Permit Unit will be automatically notified of any arrests. Therefore, where the applicant already has a pistol permit license and is seeking a restriction change, the criminal background check is updated by a search of the National Instant Criminal Background system. The printed results of this background check update is then added to the investigation materials for the applicant's file.

9. A request for a search of mental health records is forwarded to the State. The written results are returned to the Pistol Licensing Unit and are then added to the investigation

materials for the applicant's file.

10. A Detective of the Pistol Licensing Unit then investigates the content of each application, and compiles an investigative file for each such application. This investigation includes, but is not limited to, a thorough review of the four (4) character sworn reference statements submitted with the application and verification of the information included in the application. Any additional or different information obtained is then added to the investigation materials for the applicant's file.

11. I review each application and investigation, and create a summary of the investigation for the New York State Judge acting as licensing officer pursuant to Penal Law §265.00(10).

12. I then forward the application, investigation materials, and investigative summary to my superiors. These materials are then reviewed and I receive an investigative summary from a lieutenant, the Chief Inspector of Administrative Services, the Commissioner or a Deputy Commissioner.

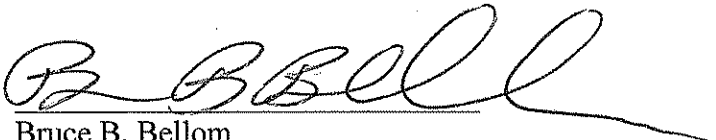
13. The entire application, investigation materials, my investigative summary, and the investigative summaries received from my superiors are then forwarded to the Judge for review and decision on the application. I believe that the Judges use their own independent review of the applications and investigation files to make their determinations.

14. Once the Judge issues his decision, the file is returned to the County Clerk, who prints the pistol permit license or closes the file, depending upon the case.

15. This procedure was completed for the applications submitted for each of the individual Plaintiffs at issue in this case. No member of the Pistol Permit Unit has the authority to issue or deny a pistol permit license in the geographical areas of Westchester County.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: White Plains, NY  
January 24, 2011

  
Bruce B. Bellom

**EXHIBIT B:**  
**Blank Pistol Permit Forms**





NEW YORK STATE POLICE  
DIVISION HEADQUARTERS  
1220 WASHINGTON AVENUE  
ALBANY, NEW YORK 12226-2252

JOHN P. MELVILLE  
ACTING SUPERINTENDENT

October 20, 2010

Mr. George N. Longworth  
Commissioner-Sheriff  
Westchester County Department  
of Public Safety  
1 Saw Mill Parkway  
Hawthorne, NY 10532

Dear Commissioner Longworth:

Reference is made to your correspondence received at this office wherein you request approval of forms which are used by the Westchester County Department of Public Safety as part of the pistol license application process. I have reviewed the forms in their entirety and find that they are in compliance with the requirements of New York State Penal Law section 400. That being the case, approval is granted for the use of all forms reviewed.

Sincerely,

A handwritten signature in dark ink, appearing to read "John P. Melville", written over a horizontal line.

John P. Melville  
Acting Superintendent

INSTRUCTIONS: Print or type in black ink only

NYSID NUMBER		PPB-3 (REV. 02/07)										COUNTY OF ISSUE										CODE									
LICENSE NUMBER		STATE OF NEW YORK										EXPIRATION DATE										MONTH DAY YEAR									
DATE OF ISSUE		PISTOL/REVOLVER LICENSE APPLICATION																													
LAST NAME		FIRST NAME										MI										MONTH DAY YEAR		SEX							
RESIDENCE ADDRESS		CITY/VILLAGE/TOWN AND STATE IF OTHER THAN NEW YORK										DATE OF BIRTH										ZIP CODE									
HGT (INS)		WGT (LBS)		EYES		HAIR		RACE		SOCIAL SECURITY NUMBER										PRESENT OCCUPATION										CITIZEN OF U.S.A. <input type="checkbox"/> YES <input type="checkbox"/> NO	
EMPLOYED BY		NATURE OF BUSINESS										BUSINESS ADDRESS																			

I HEREBY APPLY FOR A PISTOL/REVOLVER LICENSE TO: (Check one only) ☐ CARRY CONCEALED ☐ \* POSSESS ON PREMISES  
☐ \* POSSESS/CARRY DURING EMPLOYMENT (\* Premise address or place of employment must be provided)

STREET ADDRESS OR OTHER LOCATION CITY, VILLAGE, TOWN ZIP CODE  
 A LICENSE IS REQUIRED FOR THE FOLLOWING REASON:

### GIVE FOUR CHARACTER REFERENCES WHO BY THEIR SIGNATURE ATTEST TO YOUR GOOD MORAL CHARACTER

LAST, FIRST, MI	STREET ADDRESS	CITY, VILLAGE, TOWN	SIGNATURE

HAVE YOU EVER BEEN ARRESTED, SUMMONED, CHARGED OR INDICTED ANYWHERE FOR ANY OFFENSE, INCLUDING DWI (EXCEPT TRAFFIC INFRACTIONS)? ☐ YES ☐ NO IF YES, FURNISH THE FOLLOWING INFORMATION:

DATE	POLICE AGENCY	CHARGE	DISPOSITION - COURT AND DATE

HAVE YOU EVER BEEN TERMINATED/DISCHARGED FROM ANY EMPLOYMENT OR THE ARMED FORCES FOR CAUSE? ☐ YES ☐ NO

HAVE YOU EVER UNDERGONE TREATMENT FOR ALCOHOLISM OR DRUG USE? ☐ YES ☐ NO

HAVE YOU EVER SUFFERED ANY MENTAL ILLNESS, OR BEEN CONFINED TO ANY HOSPITAL, PUBLIC OR PRIVATE INSTITUTION, FOR MENTAL ILLNESS? ☐ YES ☐ NO

HAVE YOU EVER HAD A PISTOL LICENSE, DEALER'S LICENSE, GUNSMITH LICENSE, OR ANY APPLICATION FOR SUCH A LICENSE DISAPPROVED, OR HAD SUCH A LICENSE REVOKED OR CANCELLED? ☐ YES ☐ NO

DO YOU HAVE ANY PHYSICAL CONDITION WHICH COULD INTERFERE WITH THE SAFE AND PROPER USE OF A HANDGUN? ☐ YES ☐ NO

HAVE YOU EVER BEEN CHARGED, PETITIONED AGAINST, A RESPONDENT, OR OTHERWISE BEEN A SUBJECT OF A PROCEEDING IN FAMILY COURT? ☐ YES ☐ NO

IF ANSWER TO ANY QUESTION IS YES, EXPLAIN HERE:

PHOTOGRAPH  
OF APPLICANT  
TAKEN WITHIN 30 DAYS

FULL FACE ONLY

ANY OMISSION OF FACT OR ANY FALSE STATEMENT WILL BE SUFFICIENT CAUSE TO DENY THIS APPLICATION AND CONSTITUTES A CRIME PUNISHABLE BY FINE, IMPRISONMENT, OR BOTH.

I AM AWARE THAT THE FOLLOWING CONDITIONS AFFECT ANY LICENSE WHICH MAY BE ISSUED TO ME:

1. NO LICENSE ISSUED AS A RESULT OF THIS APPLICATION IS VALID IN THE CITY OF NEW YORK.
2. ANY LICENSE ISSUED AS A RESULT OF THIS APPLICATION WILL BE VALID ONLY FOR A PISTOL OR REVOLVER SPECIFICALLY DESCRIBED IN THE LICENSE PROPERLY ISSUED BY THE LICENSING OFFICER.
3. IF I PERMANENTLY CHANGE MY ADDRESS, NOTICE OF SUCH CHANGE AND MY NEW ADDRESS MUST BE FORWARDED TO THE SUPERINTENDENT OF THE STATE POLICE AND IN NASSAU COUNTY AND SUFFOLK COUNTY, TO THE LICENSING OFFICER OF THAT COUNTY WITHIN 10 DAYS OF SUCH CHANGE.
4. ANY LICENSE ISSUED AS A RESULT OF THIS APPLICATION IS SUBJECT TO REVOCATION AT ANY TIME BY THE LICENSING OFFICER OR ANY JUDGE OR JUSTICE OF A COURT OF RECORD.

JURAT:

SIGNED AND SWORN TO BEFORE ME

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_\_

AT \_\_\_\_\_, NEW YORK

SIGNATURE OF APPLICANT

SIGNATURE OF OFFICER ADMINISTERING OATH

TITLE OF OFFICER

RIGHT THUMB	2. RIGHT FOREFINGER	3. RIGHT MIDDLE FINGER	4. RIGHT RING FINGER	5. RIGHT LITTLE FINGER
LEFT THUMB	7. LEFT FOREFINGER	8. LEFT MIDDLE FINGER	9. LEFT RING FINGER	10. LEFT LITTLE FINGER

## PLAIN IMPRESSIONS TAKEN SIMULTANEOUSLY

LEFT FOUR FINGERS

RIGHT FOUR FINGERS

THUMBS TAKEN TOGETHER

IMPRESSIONS  
TAKEN BY:

NAME

RANK

SHIELD

DATE

APPLICANT'S SIGNATURE AND ADDRESS:

INVESTIGATION REPORT - ALL INFORMATION PROVIDED BY THIS APPLICANT HAS BEEN VERIFIED:

NAME

RANK

ORGANIZATION

SIGNATURE OF INVESTIGATING OFFICER

THIS APPLICATION IS APPROVED - DISAPPROVED (STRIKE OUT ONE)

THE FOLLOWING RESTRICTION(S) IS (ARE) APPLICABLE TO  
THIS LICENSE:

TITLE AND SIGNATURE OF LICENSING OFFICER

IF LICENSING OFFICER AUTHORIZES THE POSSESSION OF A PISTOL OR REVOLVER AT THE TIME OF ISSUE OF  
ORIGINAL LICENSE, FURNISH THE FOLLOWING INFORMATION:

MANUFACTURER	PISTOL OR REVOLVER	CALIBER	SERIAL NUMBER	MODEL	PROPERTY OF:

D/O/B _____
NYSID# _____

**WESTCHESTER COUNTY**  
**TIMOTHY C. IDONI**  
 County Clerk

Westchester County Clerk  
 Pistol Division  
 110 Dr. Martin Luther King Jr. Blvd.  
 White Plains, New York 10601

**APPLICATION FOR AMENDED OR DUPLICATE PISTOL LICENSE**

--

ORIGINAL LICENSE #

INSTRUCTIONS: Complete form and submit in DUPLICATE to the Westchester County Clerk's Office and include \$3.00 for Amendment or \$5.00 for duplicate.

NAME:		STREET:		CITY/VILLAGE/TOWN:	
AGE:	HEIGHT:	WEIGHT:	NOTE: Check box if purchase order is needed <input type="checkbox"/>		

**CIRCLE APPROPRIATE TRANSACTION (S)**

RESIDENCE CHANGE    DISPOSED    ACQUIRED    NAME CHANGE    RESTRICTION CHANGE    TRANSFER  
 DUPLICATE    SURRENDERED    SUSPENDED    REVOKED    DECEASED    OTHER \_\_\_\_\_

**I TO AMEND LICENSE COMPLETE 1 THROUGH 7 WHERE APPROPRIATE**

1. NAME \_\_\_\_\_ PHONE #'s: HOME \_\_\_\_\_ WORK \_\_\_\_\_

2. NEW ADDRESS \_\_\_\_\_

3. THE FOLLOWING WEAPON (S) HAVE BEEN ACQUIRED FROM: NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

LICENSE #/DEALER LICENSE #/SHIELD # \_\_\_\_\_ IF MORE THAN ONE SELLER, CHECK THIS  
 BOX ☐ AND FILL OUT BOX 7 ON THE BACK OF THIS FORM.

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #

4. THE FOLLOWING WEAPON (S) HAVE BEEN DISPOSED TO: NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

LICENSE #/DEALER LICENSE #/SHIELD # \_\_\_\_\_ IF MORE THAN ONE BUYER, CHECK THIS  
 BOX ☐ AND FILL OUT BOX 7 ON THE BACK OF THIS FORM.

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #

5. THE FOLLOWING WEAPON (S) HAVE BEEN: (CIRCLE ONE)    LOST    STOLEN    DESTROYED

LAW ENFORCEMENT AGENCY REPORTED TO: \_\_\_\_\_

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #

6. AMEND LICENSE TO: (CIRCLE ONE)    ADD    DELETE    A RESTRICTION

IF AMENDMENT IS EMPLOYMENT RELATED, STATE THE FOLLOWING: (FOR A BUSINESS, EMPLOYMENT, OR FULL CARRY)  
 I AM REQUESTING THAT THE RESTRICTION ON MY LICENSE BE CHANGED TO: \_\_\_\_\_

NAME:	STREET:	CITY/VILLAGE/TOWN:

## 7. NAMES AND ADDRESS OF BUYERS AND/OR SELLERS (IDENTIFY IF BUYER OR SELLER)

NAME	ADDRESS	WEAPON SERIAL #

(A separate list of buyers/sellers must be submitted in triplicate on plain white paper, if there are more than 4 buyers/sellers.)

**II. TO REQUEST A DUPLICATE LICENSE, COMPLETE AFFIDAVIT**

STATE OF NEW YORK }  
COUNTY OF WESTCHESTER } S.S.  
CITY/VILLAGE OF }

Full Name \_\_\_\_\_

Present Occupation \_\_\_\_\_

Name and Address of Employer \_\_\_\_\_

Serial number of lost license \_\_\_\_\_ Date of Issuance \_\_\_\_\_

Brief statement of circumstances under which permit was lost:

Statement of weapon (s) now in applicant's possession, which are to be registered on license:

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #

(A separate list of guns must be submitted in triplicate on plain white paper, if applicant possesses more than 3 guns.)

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Applicant's Signature

\_\_\_\_\_  
Notary Public**III. TO BE COMPLETED BY ALL APPLICANTS**

Have you been arrested for any crime, been a patient at any mental institution, or had an order of protection issued against you since the last license was issued? (CIRCLE ONE) YES NO  
If yes, give details below:

Date and Place of Birth \_\_\_\_\_

Foreign Born Citizens Only - Naturalization Certificate Number \_\_\_\_\_

Date of Issuance \_\_\_\_\_ Court \_\_\_\_\_

I SWEAR THAT ALL THE ABOVE FACTS ARE TRUE TO THE BEST OF MY KNOWLEDGE \_\_\_\_\_

APPLICANT'S SIGNATURE

## FOR OFFICE USE ONLY

AMENDED LICENSE APPROVED <input type="checkbox"/> NOT APPROVED <input type="checkbox"/>	DATE	COUNTY JUDGE
DUPLICATE LICENSE APPROVED <input type="checkbox"/> NOT APPROVED <input type="checkbox"/>		
EXPIRATION DATE _____		





# WESTCHESTER COUNTY POLICE PISTOL LICENSE UNIT

## BACKGROUND INVESTIGATION WORKSHEET

### OFFICE USE ONLY

CASE#: \_\_\_\_\_

DET: \_\_\_\_\_

Answer all questions fully and in accordance with the guidelines set forth in the Westchester County Pistol Safety & Information Handbook. This form and attachments must be notarized.

### APPLICANT INFORMATION:

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ M.I. \_\_\_\_\_

Address: \_\_\_\_\_  
STREET CITY STATE ZIP

Note: You must notify the County Clerk within ten (10) days if your residence address changes, with information necessary to change pistol license records (Penal Law 400.00-9).

Birth Date: \_\_\_\_\_ Sex: \_\_\_\_\_ Social Security#: \_\_\_\_\_

Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Eye Color: \_\_\_\_\_ Hair Color: \_\_\_\_\_

Place of Birth: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Telephone (Home): \_\_\_\_\_ (Cell): \_\_\_\_\_

Driver License #: \_\_\_\_\_ State: \_\_\_\_\_

### Marital Status:

☐ Single
     
 ☐ Married
     
 ☐ Separated
     
 ☐ Divorced
     
 ☐ Widowed

### Citizenship:

☐ Citizen by Birth  
☐ Naturalized Citizen  
☐ Resident Alien

Naturalization Number: \_\_\_\_\_

Alien Registration Number: \_\_\_\_\_

### Previous Address(s):

Address #1: \_\_\_\_\_  
STREET CITY STATE FROM TOAddress #2: \_\_\_\_\_  
STREET CITY STATE FROM TO

### Other Names You Have Been Known By:

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ M.I. \_\_\_\_\_

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ M.I. \_\_\_\_\_

**EMPLOYER INFORMATION:**

Employer Name: \_\_\_\_\_ Occupation: \_\_\_\_\_

Dates of Employment (From): \_\_\_\_\_ To: \_\_\_\_\_

Your Supervisor's Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_  
STREET CITY STATE ZIP

Telephone (Work): \_\_\_\_\_ Email (Work): \_\_\_\_\_

**List The Name & Address of Your Nearest Relative(s) Not Residing with You:****Relative #1:**

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ M.I. \_\_\_\_\_

Address: \_\_\_\_\_  
STREET CITY STATE ZIP

Telephone (Home): \_\_\_\_\_ Telephone (Alt): \_\_\_\_\_

**Relative #2:**

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ M.I. \_\_\_\_\_

Address: \_\_\_\_\_  
STREET CITY STATE ZIP

Telephone (Home): \_\_\_\_\_ Telephone (Alt): \_\_\_\_\_

**List The Name & Address of a Responsible Person Who Will Safeguard Firearm(s) In The Event of Your Death or Disability:**

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ M.I. \_\_\_\_\_

DOB: \_\_\_\_\_ Relation to you: \_\_\_\_\_

Address: \_\_\_\_\_  
STREET CITY STATE ZIP

Telephone (Home): \_\_\_\_\_ (Work): \_\_\_\_\_

Telephone (Cell): \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

**ANSWER THE FOLLOWING QUESTIONS: YES OR NO**

- |   | YES                      | NO                       |
|---|--------------------------|--------------------------|
| 1. Are you engaged in any alternate business enterprise, employment, profession or occupation, other than that which is listed elsewhere on this form?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Have you ever served in the armed forces of the United States or of any country?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Have you ever been <u>discharged from</u> or <u>fired from</u> any employment, or have you ever been the subject of any employment or military related disciplinary action?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Have you ever <u>sought or undergone</u> treatment for <u>alcohol or drug use</u> ?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Do you regularly use medications that may cause drowsiness, impairment or which are classified as a narcotic or as a tranquilizer?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Have you ever suffered from, sought treatment for, or been treated for any form of <u>mental illness or depression</u> , or <u>any related disease or condition</u> ?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Do you suffer from any physical defect that might interfere with the safe handling of a firearm?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Have you ever <u>applied for or held</u> a firearm license in New York State or in any other state of the United States or a foreign country?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Have you ever been <u>arrested for or charged with any crime</u> in any state of the United States or in any foreign country, including cases that were dismissed, sealed, or reduced to a petty offense or to youthful offender status? (if yes, attach a copy of the court disposition and on a separate sheet of paper provide a full explanation of the matter). | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. Has an <u>Order of Protection</u> ever been issued by a court against you or on your behalf? (if yes, attach a copy of the order, and on a separate sheet of paper list the court name, date of issuance, complainant's name/ address/ telephone number/ relationship to you & reason for the order).   | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. Have you taken the required firearm safety course, or do you have prior experience with firearm(s)?   | <input type="checkbox"/> | <input type="checkbox"/> |

**IF ANY ANSWER IS "YES", FULLY EXPLAIN ON A SEPARATE SHEET OF PAPER. THE PAPER MUST BE DATED, SIGNED AND NOTARIZED:**

\_\_\_\_\_  
APPLICANT NAME (PRINT)

\_\_\_\_\_  
APPLICANT NAME (SIGNATURE)

STATE OF NEW YORK                     )  
COUNTY OF WESTCHESTER         )

SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ YEAR \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC





**WESTCHESTER COUNTY POLICE  
PISTOL LICENSE UNIT**

**ATTACHMENT: FULL CARRY**

**OFFICE USE ONLY**

CASE#: \_\_\_\_\_

DET: \_\_\_\_\_

**Answer all questions fully and in accordance with the guidelines set forth in the Pistol Safety & Information Handbook. This form and attachments must be notarized.**

**APPLICANT INFORMATION:**

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ M.I. \_\_\_\_\_

Address: \_\_\_\_\_  
STREET CITY STATE ZIP

**Please describe your need for an Unrestricted/ Full Carry firearm license:**

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\_\_\_\_\_  
APPLICANT NAME (PRINT)

\_\_\_\_\_  
APPLICANT NAME (SIGNATURE)

STATE OF NEW YORK )  
COUNTY OF WESTCHESTER )

SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ YEAR \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC



# WESTCHESTER COUNTY POLICE PISTOL LICENSE UNIT

## CHARACTER REFERENCE LETTER

### OFFICE USE ONLY

CASE# \_\_\_\_\_

DET: \_\_\_\_\_

Answer all questions fully and have this form notarized. If necessary, attach a separate sheet of paper and have it notarized.

### PISTOL LICENSE APPLICANT INFORMATION:

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ M.I. \_\_\_\_\_

Address: \_\_\_\_\_  
STREET CITY STATE ZIP

### THIS SECTION TO BE COMPLETED BY THE PERSON PROVIDING THE CHARACTER REFERENCE:

**PLEASE NOTE:** All persons completing a character reference on behalf of an applicant may not be related to the applicant by consanguinity (blood or ancestry) or by marriage (in-law) and must have known the applicant for a sufficient period of time to be able to establish the applicant's character and reputation in the community.

### REFEREE INFORMATION:

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ M.I. \_\_\_\_\_

Address: \_\_\_\_\_  
STREET CITY STATE ZIP

Date of Birth: \_\_\_\_\_ Social Security Number (last four digits): \_\_\_\_\_

Telephone (home): \_\_\_\_\_ Telephone (Work): \_\_\_\_\_

Occupation: \_\_\_\_\_ Employer Name: \_\_\_\_\_

Employer Address: \_\_\_\_\_  
STREET CITY STATE ZIP

In what manner do you know the applicant, and for how long have you known him/ her?

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What is the applicant's general temperament. Have you ever known the applicant to engage in aggressive, threatening, violent or bizarre behavior? If yes, please explain:

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Have you ever known the applicant to use alcohol excessively or to the point of impairment? If yes, please explain:

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Have you ever known the applicant to use drugs illegally or to the point of impairment, or to socialize with persons who do so? If yes, please explain:

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Do you know of any contacts that the applicant may have had with the criminal justice system, or of any unfavorable incident(s) in the life of the applicant? If yes, please explain:

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What is your overall opinion of the applicant? (Please explain):

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\_\_\_\_\_  
REFEREE NAME (PRINT)

\_\_\_\_\_  
REFEREE NAME (SIGNATURE)

STATE OF NEW YORK                    )  
COUNTY OF WESTCHESTER         )

SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ YEAR \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC

**EXHIBIT C:**  
**Decision of Judge Caecae (Kachalsky)**

COUNTY COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

\_\_\_\_\_X  
In the Matter of the Application of

Alan N. Kachalsky,

for a pistol permit pursuant to  
Penal Law Section 400.00

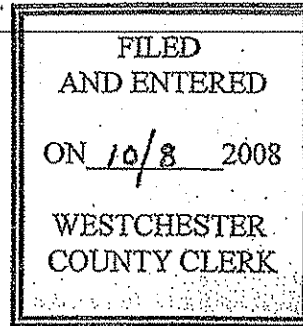
\_\_\_\_\_X  
CACACE, J.

This Court, in its capacity as handgun licensing officer for the County of Westchester (see Penal Law §265.00(10)) has been presented with the application of Alan N. Kachalsky, 47C Peck Avenue, Rye, New York, for an unrestricted full carry pistol permit. In accordance with the statutory mandate (see Penal Law §400.00 (4)), the Westchester County Department of Public Safety has conducted an investigation of the applicant's background.

In order for the issuance of a license to "have and carry concealed without regard to employment or place of possession by any person," the Court must find "proper cause exists for the issuance thereof." Penal Law §400.00(2)(f).

The Court, in exercising its broad discretion, finds "good cause" for denial of the subject application. Matter of Charles I. Anderson v. Joseph A. Mogavero, Jr. as County Court Judge of Ostego County, 116 AD2d 885.

In support of his request for an unrestricted permit, the applicant has stated that his belief is that the Second Amendment of the United States Constitution entitles him to an unrestricted permit without further establishing "proper cause." He goes on to cite the fact that we live in a world where "sporadic random violence might at any moment place one



DECISION & ORDER

Index No.: 3/2008

in a position where one needs to defend oneself or possibly others.

He has not stated any facts which would demonstrate a need for self protection distinguishable from that of the general public. The Westchester County Department of Public Safety has forwarded a recommendation that his application be denied.

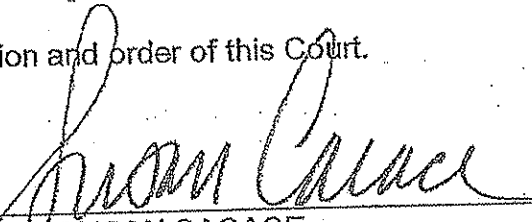
The Court does not find that the applicant has submitted a persuasive argument justifying the issuance of a "full carry" license.

The State has a substantial and legitimate interest and a grave responsibility for ensuring the safety of the general public. Licensing officers are vested with broad discretion in determining applications for an unrestricted pistol license, and are required to exercise their judgement on the basis of a total evaluation of relevant factors. See Fulco v. McGuire, 81 AD2d 509.

Based upon all the facts and circumstances of this application, it is my opinion that proper cause does not exist for the issuance of an unrestricted "full carry" pistol license to be issued to Alan N. Kachalsky. Accordingly, the application for an unrestricted, full carry pistol permit by Alan N. Kachalsky is denied.

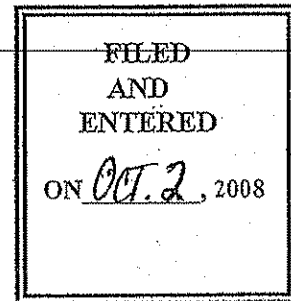
The foregoing constitutes the decision and order of this Court.

Dated: White Plains, New York  
October 8, 2008

  
HON. SUSAN CACACE  
County Court Judge

**EXHIBIT D:**  
**Decision of Judge Cohen (Nikolov)**

COUNTY COURT: WESTCHESTER COUNTY  
STATE OF NEW YORK



-----X  
In the Matter of the Application of

CHRISTINA M. NIKOLOV

DECISION & ORDER

for a Pistol Certification Pursuant to Penal Law § 400.00

-----X  
JEFFREY A. COHEN, J.:

The applicant, Christina M. Nikolov, seeks a New York State full carry pistol license. This court, in its capacity as handgun licensing officer for the County of Westchester, *see* Penal Law § 265.00(10), has been presented with the application, which includes, in accordance with Penal Law § 400.00(4), the results of the investigation that the Westchester County Department of Public Safety conducted concerning Ms. Nikolov's background.

The application and investigation reveal, in pertinent part, that the applicant currently possesses a concealed weapon permit with full carry privileges in the State of Florida and that she is a transgender female and that as such according to the National Coalition of Anti-Violence Programs she is far more likely to be a victim of violent crime than a genetic female. In addition the applicant states that "[t]hese hate crimes are increasing locally as well as nationwide" and she appended a list of hundreds of crimes against people in similar circumstances from around the world. *See* attachment to Form WCPD-126H. Conspicuously absent, however, is the report of any type of threat to her own safety anywhere.

Under these circumstances, and notwithstanding her accomplishments and

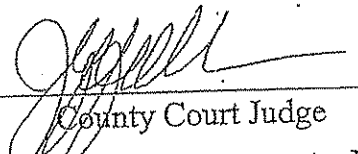


unblemished record, it cannot be said that the applicant has demonstrated that she has a special need for self-protection distinguishable from that of the general public; therefore, her application for a firearm license for a full carry permit must be denied. *See, e.g., In re Application of Ferrara v Safir*, 282 AD2d 383 (1<sup>st</sup> Dept 2001)(denial of license proper as petitioner failed to show that his position as the chief executive officer of a body-guard business for movie stars places him in extraordinary personal danger, or other special need for self-protection distinguishable from that of the general community); *In re Application of Kaplan v Bratton*, 249 AD2d 199 (1<sup>st</sup> Dept 1998)(denial of license upheld as petitioner's general allegations about her work hours and location were insufficient to show an extraordinary threat to her safety); *In the Matter of Bastiani*, 23 Misc3d 235 (Co. Ct Rockland Co. 2008)(applicant for a full carry pistol permit did not demonstrate a special need for self-protection distinguishable from that of the general community, even though on two occasions she assertedly feared for her personal safety in public places.)

The foregoing opinion shall constitute the decision and order of the court.

Enter.

Dated: OCT. 1, 2009  
White Plains, NY

  
County Court Judge  
HON. JEFFREY A. COHEN

TO: Christina M. Nikolov  
10 Franklin Avenue  
White Plains, NY 10601

**EXHIBIT E:**  
**Decision of Judge Lorenzo (Detmer)**

SUPREME COURT OF THE STATE OF NEW YORK



CHAMBERS OF  
ALBERT LORENZO  
JUSTICE

RICHARD J. DARONCO  
WESTCHESTER COUNTY COURTHOUSE  
111 DR. MARTIN LUTHER KING, JR. BOULEVARD  
WHITE PLAINS, NEW YORK 10601  
(914) 824-5403  
FAX: (914) 995-8651

September 27, 2010

Mr. Eric R. Detmer  
321 Fenimore Road  
Mamaroneck, New York 10543

Dear Mr. Detmer:

Please be advised that I am in receipt of your application to amend your pistol permit from target shooting to full carry. At this time, I see no justification for a full carry permit. Accordingly, I have disapproved your application.

Very truly yours,

A handwritten signature in black ink, appearing to read "Albert Lorenzo".

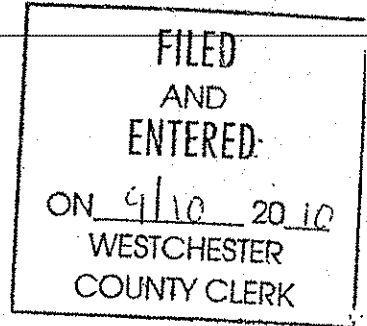
Albert Lorenzo  
Acting Supreme Court Justice

AL:lg

**EXHIBIT F:**  
**Decision of Judge Holdman (Nance)**

05-266

COUNTY COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER



-----X  
In the Matter of the Application of  
Johnnie Nance,

DECISION

Petitioner,

For an amendment to his New York State Pistol Permit.

-----X  
Robert K. Holdman, J.

The following papers were read upon Petitioner's application in the above captioned proceeding:

Johnnie Nance's Application	1
Department of Public Safety Report and Attachments	2

The applicant, Johnnie Nance, has submitted an application to Westchester County to amend his New York State Pistol License (#104518) to delete target shooting and to add full carry. The applicant also seeks the addition of one firearm and the deletion of one firearm to his license. The petitioner currently has a restricted license to carry for sport target shooting issued in the County of Westchester on April 30, 2009. The petitioner requested an amendment for a fully carry to this license because of his desire to use his NRA Instructor Safety Certifications to promote safe gun handling at various locations.

The issuance of a pistol permit for self protection has recently been held by the United States Supreme Court to be a right protected by the Second Amendment of the United States Constitution:

There seems to us no doubt, on the basis of both text and history, that the Second Amendment conferred an individual right to keep and bear arms. District of Columbia v. Heller, 554 U.S. \_\_\_\_ (2008); Slip op @ page 22.

However, in so holding the Supreme Court also recognized that the Second Amendment should not be “read...to protect the right of citizens to carry arms for any sort of confrontation.” (Id). The individual right to bear arms is limited:

Like most rights, the right secured by the Second Amendment is not unlimited. From Blackstone through the 19<sup>th</sup> Century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose. [citations omitted]. For example, the majority of 19<sup>th</sup> Century courts to consider the question held that prohibitions on carrying concealed weapons were lawful under the Second Amendment or state analogues. Slip. Op. Supra at 54.

Putting aside the question of whether the Second Amendment “individual” right to bear arms is in fact extended to the states as a fundamental right, an issue not addressed by the Supreme Court, it is clear that even if that be the case, a regulatory scheme would not run afoul of the Courts’ holding. Id, pages 53-56 and footnote 26 (where the court set forth several examples of reasonable restrictions on the right to keep and carry a weapon). In striking down the District of Columbia statute as “a ban on handgun possession in the home” and thereby violative of the Second Amendment, the Supreme Court went on to hold:

The Constitution leaves the District of Columbia a variety of tools for combating [handgun violence], including some measures regulating handguns. *Id.* at page 64.

Therefore, those charged with the duty to oversee handgun licensing, such as this Court, must, in the opinion of this Court, recognize and honor the right while at the same time recognizing the limits to the right to bear arms under the Second Amendment to the United States Constitution.

The burden of establishing “proper cause” for the issuance of a full-carry permit is upon the applicant to establish “a special need for self-protection distinguishable from that of the general community or of persons engaged in the same profession.” *Kaplan v. Brattan* 249 A.D.2d 199 at 201, *op. cit.* *Matter of Klenosky v. New York City Police Department* 75 A.D.2d 793, *affd.* 53 NY2d 685. However, Mr. Nance fails to demonstrate any concern for his safety and certainly did not distinguish himself from almost any other citizen. The Court received a report from the Westchester County Department of Public Safety, indicating that “the necessary proper cause for the issuance of a firearm license for the purpose of Full Carry has not been met by the applicant.” The applicant has not provided the court with any information that he faces any danger of any kind that would necessitate the issuance of a full carry firearm license; or has not demonstrated a need for self-protection distinguishable from that of the general public or of other persons similarly situated. The Department recommends that the applicant’s amendment to his New York State Pistol License be disapproved.

Penal Law section 400.00(2)(f) requires a showing of “proper cause” prior to the issuance of a carry-concealed permit as requested by the petitioner in this matter.


However, the petitioner failed to demonstrate “proper cause.” *Kachalsky v. Cacace*, 65

A.D.3d 1045 (2<sup>nd</sup> Dept. 2009); *Hecht v. Bivona*, 11 A.D.3d 614 (2<sup>nd</sup> Dept. 2004); *Milo v. Kelly*, 211 A.D.3d 488 (1<sup>st</sup> Dept. 1995).

In sum, the applicant has not shown sufficient circumstances to distinguish his need from those of countless others, nor has he demonstrated a specific need for self protection distinguishable from that of the general community or of persons engaged in the same business or profession. Accordingly, the petitioner's application to amend his New York State Pistol License (#104519) is denied but the application to add one firearm and to delete one firearm to the license is approved.

This constitutes the decision and order of this Court.

Dated: September 9, 2010  
White Plains, New York



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Hon. Robert K. Holdman, JSC



**EXHIBIT G:**  
**Decision of Judge Holdman**  
**(Marcucci-Nance)**

05-267

COUNTY COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

-----X

In the Matter of the Application of

DECISION

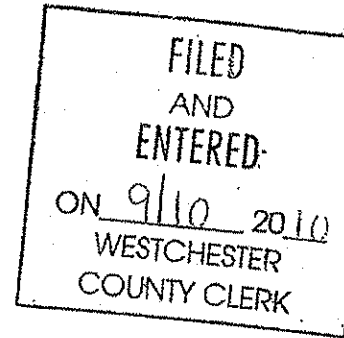
Anna L. Marcucci-Nance,

Petitioner,

For an amendment to her New York State Pistol Permit.

-----X

Robert K. Holdman, J.



The following papers were read upon Petitioner's application in the above captioned proceeding:

Anna Marcucci-Nance's Application	1
Department of Public Safety Report and Attachments	2

The applicant, Anna Marcucci-Nance, has submitted an application to Westchester County to amend her New York State Pistol License (#104519) to delete target shooting and to add full carry. The applicant also seeks the addition of one firearm and the deletion of one firearm to her license. The petitioner currently has a restricted license to carry for sport target shooting issued in the County of Westchester on April 30, 2009. The petitioner requested an amendment for a fully carry to this license because of her desire to use her NRA Instructor Safety Certifications to promote safe gun handling at various locations.

The issuance of a pistol permit for self protection has recently been held by the United States Supreme Court to be a right protected by the Second Amendment of the United States Constitution:

There seems to us no doubt, on the basis of both text and history, that the Second Amendment conferred an individual right to keep and bear arms. District of Columbia v. Heller, 554 U.S. \_\_\_\_ (2008); Slip op @ page 22.

However, in so holding the Supreme Court also recognized that the Second Amendment should not be “read...to protect the right of citizens to carry arms for any sort of confrontation.” (Id.). The individual right to bear arms is limited:

Like most rights, the right secured by the Second Amendment is not unlimited. From Blackstone through the 19<sup>th</sup> Century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose. [citations omitted]. For example, the majority of 19<sup>th</sup> Century courts to consider the question held that prohibitions on carrying concealed weapons were lawful under the Second Amendment or state analogues. Slip. Op. Supra at 54.

Putting aside the question of whether the Second Amendment “individual” right to bear arms is in fact extended to the states as a fundamental right, an issue not addressed by the Supreme Court, it is clear that even if that be the case, a regulatory scheme would not run afoul of the Courts’ holding. Id., pages 53-56 and footnote 26 (where the court set forth several examples of reasonable restrictions on the right to keep and carry a weapon). In striking down the District of Columbia statute as “a ban on handgun possession in the home” and thereby violative of the Second Amendment, the Supreme Court went on to hold:

The Constitution leaves the District of Columbia a variety of tools for combating [handgun violence], including some measures regulating handguns. Id. at page 64.

Therefore, those charged with the duty to oversee handgun licensing, such as this Court, must, in the opinion of this Court, recognize and honor the right while at the same time recognizing the limits to the right to bear arms under the Second Amendment to the United States Constitution.

The burden of establishing "proper cause" for the issuance of a full-carry permit is upon the applicant to establish "a special need for self-protection distinguishable from that of the general community or of persons engaged in the same profession." Kaplan v. Brattan 249 A.D.2d 199 at 201, op. cit. Matter of Klenosky v. New York City Police Department 75 A.D.2d 793, aff'd, 53 NY2d 685. However, Ms. Marcucci-Nance fails to demonstrate any concern for her safety and certainly did not distinguish herself from almost any other citizen. The Court received a report from the Westchester County Department of Public Safety, indicating that "the necessary proper cause for the issuance of a firearm license for the purpose of Full Carry has not been met by the applicant." The applicant has not provided the court with any information that she faces any danger of any kind that would necessitate the issuance of a full carry firearm license; or has not demonstrated a need for self-protection distinguishable from that of the general public or of other persons similarly situated. The Department recommends that the applicant's amendment to his New York State Pistol License be disapproved.

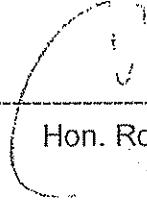
Penal Law section 400.00(2)(f) requires a showing of "proper cause" prior to the issuance of a carry-concealed permit as requested by the petitioner in this matter. However, the petitioner failed to demonstrate "proper cause." *Kachalsky v. Cacace*, 65

A.D.3d 1045 (2<sup>nd</sup> Dept. 2009); *Hecht v. Bivona*, 11 A.D.3d 614 (2<sup>nd</sup> Dept. 2004); *Milo v. Kelly*, 211 A.D.3d 488 (1<sup>st</sup> Dept. 1995).

In sum, the applicant has not shown sufficient circumstances to distinguish her need from those of countless others, nor has she demonstrated a specific need for self protection distinguishable from that of the general community or of persons engaged in the same business or profession. Accordingly, the petitioner's application to amend her New York State Pistol License (#104519) is denied but the application to add one firearm and to delete one firearm to the license is approved.

This constitutes the decision and order of this Court.

Dated: September 9, 2010  
White Plains, New York

  
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Hon. Robert K. Holdman, JSC